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List of issues in relation to the third periodic report of Lebanon

Addendum

Replies of Lebanon to the list of issues*

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Replies of the Ministry of Justice to the list of issues submitted to Lebanon by the Committee established pursuant to the International Covenant on Civil and Political Rights

I. Constitutional and legal framework for the implementation of the International Covenant on Civil and Political Rights

1. The legal status of the International Covenant on Civil and Political Rights in respect of the country's Constitution and laws

1. Paragraph (b) of the preamble to the Lebanese Constitution provides: "Lebanon is Arab in its identity and belonging. It is a founding and active member of the League of Arab States and is bound by its charters. It is also a founding and active member of the United Nations Organization and is bound by its charters and by the Declaration of Human Rights. The State shall embody these principles in all fields and areas, without exception".

2. All the provisions of the above-mentioned international instruments and treaties enjoy the status of constitutional provisions, as affirmed by the independent legal opinion of the Constitutional Council, which held that the provisions of the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966) and the Arab Charter on Human Rights have equivalent status to the provisions of the Convention.

3. Within that context, article 2 of the Code of Civil Procedure provides: "The courts shall be bound by the principle of the hierarchy of rules".

4. That article also provides: "In the event of conflict between the provisions of international treaties and those of ordinary law, the former shall take precedence over the latter. Courts may not declare null the activities of the legislative authority on the grounds of inconsistency of ordinary laws with the Constitution or international treaties".

5. Article 2, which enshrines Kelsen's theory of the hierarchy of legal norms, therefore makes clear that the provisions of international treaties prevail over the provisions of domestic laws; in the event of any conflict between the provisions of international treaties and the provisions of domestic legislation and administrative decisions, the judge must implement the former rather than the latter.

6. On that basis, and particularly in the light of paragraph (b) of the preamble to the Constitution, article 2 of the Code of Civil Procedure and the jurisprudence of the Constitutional Council, it is clear that the provisions of the International Covenant on Civil and Political Rights are "**of constitutional value**" and complement the provisions of the Constitution.

7. In their application, the provisions of the Covenant prevail over the provisions of domestic legislation and administrative decisions.

2. Judicial rulings invoking the provisions of the Covenant

8. Members of the Lebanese judiciary, including, in particular, summary and criminal judges, have referred to the Covenant in many of their judgments.

9. We will highlight how certain judicial rulings handed down by Lebanese courts have drawn upon the provisions of the Convention.

3. Practical measures to facilitate a transition from the political confessionalism system in Lebanon

10. The State has adopted numerous regulatory and educational measures to combat sectarian-based prejudice, intolerance and incitement with a view to addressing entrenched confessionalism and inculcating a sense of national identity.

11. Act No. 44, issued on 17 July 2017, adopts the principle of proportionality and constitutes a positive step in the country's efforts to eradicate sectarianism. Furthermore, a draft law that would facilitate administrative decentralization and the work of the country's municipalities is under consideration by the Chamber of Deputies.

II. Non-discrimination and equality between men and women

1. Protecting women and other family members from domestic violence, preventing sexual harassment and repealing measures that provide for rapists who marry their victims to benefit from mitigating circumstances

12. Kindly see section IV below.

2. Homosexuality

13. Under Lebanese law, and more specifically under article 534 of the Criminal Code, all forms of sexual intercourse contrary to the order of nature are subject to punishment; most members of the judiciary continue to consider intercourse between two individuals of the same sex as contrary to the order of nature and impose penalties on perpetrators.

14. We should like, however, to draw attention to the following important points, which reflect the evolution of the State's views on this issue:

(a) The judiciary demonstrates leniency when imposing penalties for the offence of sexual intercourse contrary to the order of nature. Although the law prescribes a penalty of imprisonment, judges substitute that penalty with a fine. Only in very rare and exceptional cases are homosexuals arrested for the offence of sexual intercourse contrary to the order of nature;

(b) The legal provisions on the prohibition of torture during judicial investigations and on the rights of arrested persons before the judiciary apply to all persons, regardless of their sexual orientation or identity;

(c) Four judgments upholding the rights of homosexuals have been issued by individual judges specializing in misdemeanours and minor offences. The first of those judgments was handed down in 2009, the second in 2014, the third in 2016 and the fourth in 2017. However, the four rulings have had little impact on the majority of judicial decisions in that regard and the judiciary continues to impose punishments for sexual activity between homosexuals;

(d) The Office of the Public Prosecutor at the Court of Cassation has issued a circular to the judges at the Office of the Public Prosecutor prohibiting anal examinations with a view to obtaining evidence of sexual intercourse between homosexuals. The Chief of Physicians has also issued a decree prohibiting forensic physicians from conducting such examinations.

3. Gender equality and family rights

15. With regard to the principle of equal marital rights for men and women when drawing up, enacting and annulling marriage contracts, as well as the principle of equal marital rights for men and women in matters of inheritance, the adoption of a unified civil

personal status code for all confessions remains a controversial issue in Lebanese society that cannot be addressed easily at the present time, primarily on account of the confessional nature of the system.

4. The right to choose a civil marriage

16. The recognition of civil marriages concluded under the auspices of the Lebanese authorities remains a problematic issue, even though recognition of civil marriages between Lebanese citizens that take place abroad is uncontroversial.

17. In 2014 the Minister of the Interior and Municipalities refused to register a civil marriage contracted in Lebanon before a notary between two Lebanese nationals who were not registered as belonging to any religious denomination. However, the Supreme Advisory Council of the Ministry of Justice issued a legal opinion that upholds the right of Lebanese nationals who do not belong to a denomination to conclude a civil marriage contract before a notary and to have their marriage documents recorded in the Lebanese civil registry.

18. Lebanese officials are continuing their discussions with regard to the enactment of legislation that would provide for optional civil marriages.

5. The right of Lebanese women to pass on their nationality

19. The issue of whether Lebanese women should be entitled to transfer their nationality to their children or a foreign spouse in the same way as Lebanese men who are married to a foreign spouse continues to be a source of conflicting opinions among the various political parties.

20. However, on 21 March 2012, the Lebanese Government established a ministerial committee to consider amending the final paragraph of article 4 of Decision No. 15 of 19 January 1925 (the Nationality Act) as a first step towards addressing the right of Lebanese women to transfer their nationality to their families.

21. On 31 May 2010, the Government issued Decree No. 4186, which stipulated that a renewable courtesy residence permit should be granted to the foreign husband of any Lebanese woman one year after their marriage and to the children of any Lebanese woman married to a foreign husband, whether they were adults or minors and regardless of whether they were employed.

6. Stereotypes regarding the role of women in the family and in society

22. There are no stereotypes regarding the role of Lebanese women. Indeed, Lebanese women, rather than being compelled to focus only on building families and raising and educating children, have successfully entered the labour market and assumed leadership positions in both the public and private sectors.

23. In that connection, the State wishes to emphasize that the Ministry of Education and Higher Education, the National Commission for Lebanese Women and, recently, the Ministry of Women's Affairs have held courses in schools and universities throughout Lebanon, and particularly in rural and remote areas, to raise awareness of women's leading role within society.

7. Women's involvement in political life

24. Both the President of the Republic and the Prime Minister have paid particular attention to the situation of Lebanese women. Consequently, ministerial portfolios for human rights and women's rights were established when the Government was formed in early 2017.

25. No legal obstacles prevent women from participating in political life or holding parliamentary or ministerial posts. Nonetheless, women continue to play a limited role in the Government and the Chamber of Deputies.

26. The Ministry of Women's Affairs and the National Commission for Lebanese Women cooperate with civil society organizations in launching media campaigns and organizing training courses for women in order to encourage and help them to play a greater role in political life.

27. The Chamber of Deputies is currently considering legislative bills aimed at enhancing the participation of Lebanese women in political life by introducing electoral quotas to ensure that they have seats in the parliamentary and municipal councils and in the Government. Furthermore, many Lebanese political parties have announced that they will ensure that women comprise a certain proportion of their candidates in the next elections to the Chamber of Deputies.

III. The state of emergency

28. Following the lifting of the state of emergency declared in Decree No. 7988 of 27 February 1996, the Government declared no further state of emergency during the period from 1997 to 2016, despite repeated security crises and terrorist attacks on different regions. In the light of that situation, no measures are being taken to amend Legislative Decree No. 102/83.

29. Attention is drawn, however to the legal conditions for declaring a state of emergency, as set forth in the State party's report (CCPR/C/LBN/3). In accordance with the Constitution, any decision to declare a state of emergency must be taken in the presence of a two-thirds majority of the Council of Ministers and must be approved by a two-thirds majority. Furthermore, a state of emergency may be declared only in exceptional circumstances (see paragraphs 45 to 47 of the State party's report).

IV. Violence against women, including domestic violence

1. Domestic violence

30. The State has taken numerous steps to combat domestic violence against women. The Lebanese Government's approval at its meeting on 3 August 2017 of amendments to Act No. 293 of 2014 concerning the protection of women and other family members from domestic violence, which were proposed by the Minister of Justice following consultations with the Minister for Women's Affairs, the Minister for Human Rights and the civil society organization KAFA (Enough), perhaps most clearly underscores the desire of Lebanon's national authorities to ensure that women, children and other members of the family who have been subjected to violence are protected.

31. The draft act on that matter has been submitted to the Chamber of Deputies for approval.

32. The most important proposed amendments to Act No. 293 include the following:

(a) Adopting a definition of domestic violence commensurate with international standards based on the abuse of authority within the family. The proposed text defines domestic violence as "any act or omission or threat thereof that reflects **an abuse of authority within the family**, the membership of which is set forth in the definition of the family, **by means of physical or other force** perpetrated by one of its members against one or more other members of the family that results in death or physical, psychological, sexual or economic harm";

(b) Treating domestic violence as a stand-alone offence with a view to ensuring greater legal clarity and enhanced applicability of the law and punishment for all potential criminal consequences of domestic violence, including intentional homicide, unintentional

homicide, sexual exploitation and beggary as well as deprivation of liberty, physical and psychological harm and economic abuse;

(c) Adopting the principle of judicial specialization in prosecuting, investigating and ruling with a view to providing enhanced and expedited protection to women and all members of the family from any violence perpetrated against them;

(d) Ensuring that children under the age of majority rather than under the age of custody are entitled to protections as children from domestic violence;

(e) Ensuring that adequate protections are offered to women and children, particularly in view of the fact that domestic violence often takes place in private as an expression of power relations within and outside the family that deserve specific treatment.

2. Absence of criminalization of marital rape

33. The issue of the criminalization of marital rape remains controversial among the political parties represented in the Chamber of Deputies. It should be noted, however, that the proposed amendments to Act No. 293 of 2014 concerning the protection of women and other family members from domestic violence provide for the deletion of the phrase "marital rights" and for violence perpetrated against women for the purposes of sexual intercourse or as a result of it to be considered an aggravating circumstance when judgments are handed down.

3. So-called "honour crimes"

34. On 17 August 2011, the Chamber of Deputies promulgated Act No. 162 abolishing the extenuating circumstances provided in article 562 of the Criminal Code for any man who kills or injures his wife, a progenitor or descendant, or his sister on the grounds that she has committed adultery or engaged in illicit intercourse (so-called honour crimes).

4. Repeal of article 522 of the Criminal Code

35. On 16 August 2017, the Chamber of Deputies approved a proposal submitted by the Committee on Administration and Justice providing for the repeal of article 522 of the Lebanese Criminal Code, which exempts rapists and the perpetrators of kidnappings for marriage from prosecution or punishment if they marry their victims.

5. Punishing sexual harassment in the workplace

36. The Ministry of Women's Affairs has drawn up a draft act that provides for penalties to be imposed for sexual harassment in the workplace. At its meeting on 8 March 2017, the Government endorsed the draft act, which has been submitted to the Chamber of Deputies for its approval.

6. Statistics on the number of complaints of violence against women, including domestic violence and rape, and on the number of prosecutions and judgments awarding compensation to victims

37. No official statistics have been compiled in this regard. Prosecutions have taken place, however, and the judiciary has handed down judgments providing judicial redress and awarding compensation to women who have been subjected to all forms of violence.

V. Right to life and prohibition of torture and other cruel, inhuman or degrading treatment or punishment

1. Right to life

38. Please see paragraphs 48 to 62 of the State party's report, which address the points raised. Kindly also see the attached information regarding:

(a) Death penalties executed;

(b) Death penalties for which decrees were not issued;

(c) Death penalties for which decrees were issued but which were not executed;

(d) Death penalties for which decrees were issued commuting the penalty to hard labour for life or to a custodial sentence of 20 years, in accordance with the opinion of the Pardon Commission;

(e) Death sentences upheld by the Pardon Commission but which were not submitted by the Minister of Justice to the President of the Republic for approval.

2. Missing persons

39. Approaches to the rights of individuals who went missing during the civil war that began on 13 April 1974 and to the right of the relatives of missing persons to know their fate have evolved over the years in Lebanon.

40. Following the end of the Lebanese Civil War, Act No. 84 of 26 August 1991 established an amnesty for all political crimes, namely offences of a political nature that had not been committed for personal gain or benefit and which had been perpetrated prior to 28 March 1991. Act No. 84 sought to ensure the end of the war and facilitate efforts to foster peace. In the same context, the Chamber of Deputies later promulgated Act No. 7 of 19 July 2005 granting an amnesty to Mr. Samir Geagea and his associates in all cases brought against them prior to 30 December 1994.

41. At that time, the State was seeking to entrench the end the civil war and lay the foundations of civil peace between the various political stakeholders. Act No. 84 of 1991 made no mention of war crimes or crimes against humanity and it set forth no special procedures for addressing the issue of missing persons. However, it did uphold the right of victims' families to sue for damages in competent civil courts.

42. After 1999, however, views of how the issue of missing persons should be addressed began to diverge from the views that had prevailed after the war, which had been characterized by a desire on the part of the authorities to turn the page, move on and work to lay the foundations for civil peace. Indeed, there is now growing openness to addressing the rights of the families of missing persons.

43. On 21 January 2000, the Government issued Decision No. 10 of 2000 establishing a commission of inquiry to determine the fate of persons who had been kidnapped or gone missing during the war. After gathering information and carrying out investigations on the basis of forms completed by the relatives of the missing persons, the commission submitted its report to the Government on 25 July 2000 and announced the existence of mass graves in Mar Meter, Ashrafieh, the English cemetery in Tahwita and the Martyrs' cemetery in Horsh Beirut. The Committee also declared that all persons who had been missing for more than four years were presumed dead.

44. The findings of this report were met with opposition by families of missing persons who believe that their relatives are still alive. On 5 January 2001, in response to their demands and pursuant to Decision No. 1 of 2001, the Government established the Committee for Receiving Complaints from the families of kidnapped persons, in order to receive requests from citizens who believed that their relatives were still alive and wished

to have the files of those individuals re-examined. The Committee for Receiving Complains suspended its work on 7 June 2002 and submitted its report to the Council of Ministers.

45. Since the Syrian army departed from Lebanon on 26 April 2005, there has been an increasing number of requests for information regarding the fate of missing persons and detainees held in Syrian prisons. On 5 June 2005, the Government established a joint Lebanese-Syrian commission to investigate the fate of missing persons and detainees held in Syrian prisons. Efforts were, moreover, stepped up with a view to investigating rights violations committed while Syrian forces were present in Lebanon. As a result, a mass grave was excavated in Yarzeh, which allowed the fate of a number of persons who had gone missing since the events of October 1989 to be determined.

46. In that same context and in line with the State's desire to find legal solutions to the issue of missing persons, the Lebanese Government acceded to the International Convention for the Protection of All Persons from Enforced Disappearance on 6 February 2007. On 8 August 2007, the Government issued Decree No. 618 providing for the draft act on the ratification of the Convention to be submitted to the Chamber of Deputies. However, because of the unstable political and security situation, which has resulted in the paralysis of the country's constitutional institutions, that instrument has not yet been ratified by the Chamber of Deputies.

47. Since 2008, successive Governments have endeavoured to ascertain the fate of missing persons, regardless of whether they are still alive or dead.

48. In that regard, the National Action Plan for Human Rights for the period 2014–2019, which was launched in the form of a recommendation transmitted to the general body of the Chamber of Deputies on 10 December 2012, included a special report on kidnapped, missing and forcibly disappeared persons.

49. In the light of Lebanon's ongoing commitment to resolving the issue of missing and forcibly displaced persons, as outlined above, the State wishes to provide the following information:

(a) Information regarding the domestic and international legal provisions on missing persons;

(b) Information regarding the legal mechanisms for the protection of the rights of missing persons and their relatives;

(c) Information regarding the right of relatives and families of missing persons to know their fate;

(a) Information regarding the binding domestic and international legal provisions on missing persons

50. The preamble to the Constitution underscores the commitment of the Lebanese State to upholding the international conventions of the United Nations. The following are the most important United Nations instruments relevant to the issue of missing persons:

- The Universal Declaration of Human Rights.
- The International Covenant on Civil and Political Rights.
- The International Covenant on Economic, Social and Cultural Rights.
- The Geneva Conventions of 1949 and Additional Protocol I thereto.

51. Lebanon has ratified all these international instruments. Their provisions are therefore binding on the State and its official organs and constitute an integral part of its legal system.

52. In terms of its national legislation, Lebanon has not adopted a comprehensive law on missing persons. That issue is, instead, addressed on the basis of legislation contained in a number of laws.

53. In civil law, the question of whether persons are deemed "missing" or "absent" is addressed within the context of the country's personal status laws, according to which, such

persons are defined as individuals who are not known to be either alive or dead and whose whereabouts are unknown. (In this regard, see article 33 of the Non-Muhammadan Inheritance Act of 23 June 1959, the Sunni and Ja'fari Judiciaries Regulation Act of 16 July 1962 and the Druze Personal Status Act of 24 February 1948).

54. On 15 May 1995, the Chamber of Deputies promulgated Act No. 443 which granted the competent courts, on the basis of a petition submitted by the relatives of non-Muhammadans and adherents to the Hanafi and Ja'fari (non-Druze) sects, the authority to declare dead an individual who has remained missing and about whom no news has been received for at least four years. For members of the Druze community, the individual concerned must have remained missing and no news received for at least 10 years. The will of the absent or missing individual can thus be legally executed as if he or she were deceased and the property of that individual distributed among his or her heirs.

55. In the area of penal law, article 549 et seq. of the Criminal Code provide for the punishment of intentional homicide, while article 569 provides for the punishment of kidnapping and enforced disappearance. Abduction and enforced disappearance are treated as continuous offences; they are therefore excluded from the scope of Act No. 84 of 1991 and are not subject to the provisions on a general amnesty. (In that regard, see the decision issued on 13 December 2012 by the Mount Lebanon Criminal Court and the decision issued on 12 June 2003 by the Southern Criminal Court).

(b) Information regarding the legal mechanisms for the protection of the rights of missing persons and their relatives

56. As noted above, successive governments (in 2000, 2001 and 2005) established government committees to respond to requests from the families of missing persons for information regarding the fate of those persons. In view of the fact that those committees failed to achieve their desired goals, the country's governments since 2008 have committed themselves to resolving the question of missing persons in an integrated and comprehensive manner, in line with applicable international standards in that area.

57. The Lebanese authorities, and specifically the country's executive and legislative authorities, are making every effort to establish a legal framework that safeguards the rights of missing persons and their relatives.

58. Legal disagreements have emerged on the question of which competent authority should address this important national issue. In that regard, a draft decree drawn up by the Minister of Justice on the establishment of an independent national commission on forcibly disappeared and missing persons has been submitted to the Council of Ministers; the commission will be responsible for determining the fate of individuals who disappeared or went missing between 14 April 1975 and 26 April 2005 and, to that end, will establish a comprehensive information bank on those individuals and include all information it gathers in a centralized database. The commission will also establish standards for the management and protection of that information.

59. The draft decree was met with opposition from the families of missing persons. The Council of Ministers therefore took a number of administrative steps to ensure that the rights of missing persons and their relatives were fully upheld. These included the following:

- Issuing a decision on 25 July 2012 providing for publication of the draft decree and calling on civil society organizations to submit their comments in that regard.
- Issuing a decision on 4 October 2012 providing for the establishment of a ministerial body, comprising the Minister of Social Affairs, the Minister of Labour and a Minister of State and headed by the Minister of Justice, to study the draft decree on the establishment of the independent national commission on forcibly disappeared and missing persons and to submit a report containing suggestions in that regard to the Council of Ministers.
- The aforementioned ministerial body received observations submitted by a number of national and international civil society organizations concerned with missing persons. Among the most important of those organizations were the following: the

Committee of the Families of Kidnapped and Disappeared in Lebanon; Support of Lebanese in Detention and Exile; the Committee of the Families of Detainees in Syrian Prisons, The Legal Agenda, the International Committee of the Red Cross and the International Center for Transitional Justice.

60. In addition to the above, the Minister of Justice transmitted the draft decree to the Council of State to provide it with an opportunity to issue an advisory opinion on the text. In its advisory capacity, the Council of State issued Opinion No. 146/2012-2013 of 4 February 2013, in which it expressed its belief that, in view of the fact that the issue of missing persons was intricately related to the question of human rights and fundamental freedoms, it must be addressed pursuant to an Act promulgated by the legislative authorities rather than pursuant to a decree issued by the country's executive authorities.

61. In that connection, it should be noted that the civil society organizations believe that, under the law, the issue of missing persons should be dealt with by the legislative authorities. Those organizations have submitted proposed legislation to the Chamber of Deputies, which is currently reviewing that proposal along with other proposed legislation. However, the difficult political and security situation in Lebanon has prevented the Chamber of Deputies from holding legislative sessions, and has thus seriously impeded efforts to uphold the rights of missing persons and their relatives.

62. However, despite the country's institutional paralysis, the families of missing persons have been able to petition the courts in order to establish their right to know the fate of their loved ones.

(c) Information regarding the right of families of missing persons to know their fate

63. The right of the families of missing persons to know the fate of their relatives is one of the fundamental rights recognized under international humanitarian law and international human rights law. There are, however, no laws in Lebanon that clearly and explicitly uphold that right. Instead, the Lebanese judiciary has issued numerous judicial decisions reflecting and recognizing that right.

64. On 25 July 2000, the commission of inquiry established pursuant to Decision No. 10 of 2000 to determine the fate of kidnapped and missing persons issued the report that had been commissioned by the Government. Most of the report remained confidential, however. The following key issues were emphasized by the commission in the report's conclusions:

- The corpses of individuals executed by the various militias in the Lebanese civil war were buried in different areas of Lebanon or even thrown into the sea.
- There are numerous mass graves in Lebanon, located in various parts of the country. The report mentions three mass graves, namely those in Mar Meter, Ashrafieh, the English cemetery in Tahwita and the Martyrs' cemetery in Horsh Beirut.
- In the light of medical opinions stating that individuals cannot be identified more than 20 years after their deaths, all persons who had been missing for more than four years are presumed deceased.

65. The report remains confidential and has not been published by the Government. However, the Committee of the Families of Kidnapped and Disappeared in Lebanon and the organization Support of Lebanese in Detention and Exile filed a petition for a summary judgement to protect the graves in Mar Meter, Ashrafieh and the Martyrs' cemetery in Horsh Beirut, and the Beirut summary judge issued a judicial decision on 23 October 2009 ordering the clerk of the court to obtain a copy of the complete investigation file in order to uphold the right of the families of the missing persons to know the fate of their relatives.

66. On 24 December 2009, the aforementioned organizations appealed to the Council of State to compel the State to hand over a copy of the complete file on the investigations into the fate of missing persons. The Council of State responded to their appeal on 4 March 2014 by issuing a historic decision that upheld the right of the relatives of missing and forcibly displaced persons to know their fate.

3. Establishing a law criminalizing the offence of torture that conforms with international standards

67. On 29 September 2017, the Chamber of Deputies approved a draft act criminalizing the offence of torture that conforms with article 7 of the Covenant.

68. The act includes a definition of the offence of torture and other cruel, inhuman or degrading treatment or punishment, as well as provisions on mitigating circumstances, unlawful orders, the passage of time and procedures for investigating torture offences.

4. Preventing and combating torture

69. The State is making every effort to combat all torture and all forms of ill-treatment by adopting preventive and punitive measures and working to improving conditions for detainees held in Lebanese prisons.

(a) Preventative measures to combat torture

70. The preventive measures taken relate, primarily, to the restructuring of the Department of Forensic Medicine. Greater use is, moreover, being made of forensic evidence in order to ensure that perpetrators of torture offences are held to account and torture victims receive compensation.

71. The State is aware that the most effective means for establishing a person's responsibility for committing the offence of torture and the consequential rights of the victim (or of his relatives in the event of the victim's death) is the use of expert scientific evidence provided by a forensic pathologist who clinically examines the victim and determines any physical injury suffered, the approximate date of its occurrence and the type of instrument (blunt or sharp, for example) that might have caused the injury.

72. The Ministry of Justice recognizes the essential role of forensic evidence in ultimately holding perpetrators of torture to account and helping victims to claim compensation for their injuries. It thus signed a memorandum of understanding with the Restart Centre for Rehabilitation of Victims of Violence and Torture, a Lebanon-based non-governmental organization, on restructuring the Department of Forensic Medicine in line with the Istanbul Protocol (Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment). Financial support for the initiative was provided by the European Union.

73. In its efforts to start giving effect to the memorandum of understanding, the Ministry of Justice established a specialized committee of experts in law and forensic medicine to collaborate with the Restart Centre on the following:

- Reorganizing the administrative and technical structure of the Department of Forensic Medicine (in which context it is pertinent to mention a plan supported and funded by the European Union for automating the Ministry of Justice, including the Department of Forensic Medicine, which is to have a database containing information on all matters relating to forensic medicine).
- Setting the objectives of the Department of Forensic Medicine and producing an action plan.
- Setting criteria for the appointment of forensic pathologists.
- Setting a code of conduct for forensic pathologists in line with the principles enunciated in the Istanbul Protocol.
- Establishing an administrative unit in charge of continuous training for forensic pathologists.

74. This European Union-financed plan was rolled out in June 2015 for completion over a 30-month period.

75. As part of reinforcing the State's efforts to combat and prevent torture through assisting victims and ensuring that the legal frameworks are in place for enabling them to establish their rights vis-à-vis the perpetrators of torture offences, the Ministry of Justice, with the support of the European Union and in collaboration with the Restart Centre, established a forensic medicine centre at the Palais de Justice in Tripoli in 2017.

76. The forensic medical centre will serve as model project; it will be piloted for two years and then rolled out, following an assessment, to courts of justice in all governorates. The centre will be provided with technical equipment (medical apparatus) and staffed by appropriate personnel (two forensic pathologists for carrying out physical examinations, two for carrying out psychological assessments, two social workers and two legal experts).

77. In addition to providing the opportunity for detainees to undergo a medical examination free of charge, the centre is to perform the important functions of:

- Detecting communicable diseases in prisons.
- Detecting cases of torture or ill-treatment (physical or psychological).
- Documenting cases of torture in accordance with the standards laid down in the Istanbul Protocol.
- Providing legal advice to detainees where otherwise unavailable.
- Compiling an annual report on all abuses detected through medical examinations (without naming the persons concerned, unless they have given their consent) and transmitting the report to the Ministry of Justice for referral to the competent judicial authorities so that investigations can be conducted and perpetrators prosecuted and held to account.

(a) Procedures for holding perpetrators of torture to account

78. The Lebanese judiciary hands down guilty verdicts against security service personnel who commit torture in cases where a victim lodges a complaint of torture and there is sufficient evidence to satisfy the court that the offence took place (the ruling given by the Beirut Misdemeanours Appeal Court on 14 March 2013 may be consulted for guidance in this respect). There are no official statistics on the number of complaints and rulings in this regard.

79. Where the criminal courts are presented with evidence that a detainee has been subjected to torture for the purpose of obtaining a statement, a forensic pathologist is appointed to confirm that fact and the file is referred to the competent judicial authorities for investigation.

80. Indeed, when the leaking of videos to the media drew attention to acts of torture that had been perpetrated in Roumieh prison following a riot by prisoners on 20 April 2015, the crime was investigated by the Office of the Public Prosecutor at the Court of Cassation. The security service personnel accused of torture were brought before the first military investigative judge, who issued an indictment against them on 6 July 2015 and referred them to a competent court to stand trial.

5. Establishment of the National Authority for the Prevention Torture

81. On 27 October 2016, the Chamber of Deputies promulgated Act No. 62 establishing the National Human Rights Commission, which oversees the Committee for the Protection from Torture and which is responsible, inter alia, for protecting and promoting human rights in accordance with established constitutional and international standards, monitoring violations, and receiving and taking action to address complaints.

82. Act No. 62 was promulgated on the basis of the Paris Principles as well as the principles enshrined in the Optional Protocol to the Convention against Torture relevant to the establishment of independent national preventive mechanisms for the prevention of torture.

6. Penalizing abortion

83. Abortion is penalized under articles 539 to 546 of the Criminal Code in view of the fact that the issue is closely linked to the beliefs held by Lebanon's recognized religious sects.

84. The Criminal Code specifically penalizes the following:

- Using the media to publicize, promote or facilitate abortion.
- Selling, offering for sale or acquiring for the purpose of sale objects intended for carrying out abortions or facilitating in any way the use of those objects.
- Actions by a woman who through any means induces her own abortion or allows another person to do so.
- Performing by any means or attempting to perform an abortion, irrespective of whether or not the woman has consented to the procedure.

85. Attention should be drawn in this connection to the following:

(a) A person performing an abortion to save the honour of a descendant or relative to the second degree, as well as a woman inducing her own abortion to save her honour, is subject to a reduced penalty;

(b) The penalty is increased if the offence of abortion is committed by a doctor, surgeon, midwife, pharmacist or one of their employees, or if that person instigates or participates in the offence. Offenders may also be prohibited from practicing their professions and their places of business closed, even if they do not require a certificate or a licence from the authorities to practice;

(c) Lebanese law does permit abortions to be performed in all cases in which the pregnancy places the woman's life in danger.

VI. Liberty and security of person and treatment of persons deprived of their liberty

1. Arbitrary and extrajudicial arrest and detention by security forces and certain armed groups

86. Attention is drawn in this regard to the State party's report. We should also like to underscore that the Code of Criminal Procedure clearly and explicitly prohibits all secret detention at the hands of judicial police officers or extrajudicial actors.

87. Article 8 of the Constitution, the country's foremost legal instrument, provides that: **"The right to personal liberty shall be guaranteed and protected by law. No one may be arrested, imprisoned or detained except as provided for by law and no offence or penalty may be established other than by law."**

88. Indeed, the law prohibits the arbitrary detention of persons residing in Lebanese territory by providing for judicial control and oversight of the actions of judicial police officers and by fixing the period during which a person may be held in custody in connection with the preliminary investigation by judicial police officers. That period may not be altered or exceeded.

89. Judicial police officers who infringe the legal provisions and principles governing pretrial detention, such as by holding a person in detention without a court order, are held to account and prosecuted for the offence of deprivation of liberty provided for in article 367 of the Criminal Code. Disciplinary measures are also imposed, as expressly provided for in article 48 of the Code of Criminal Procedure.

2. Increase in the number of persons being held in pretrial detention

90. Since the start of the Syrian crisis more than six years ago, Lebanon has faced unprecedented existential threats and challenges. The most prominent of these include the growing threat of terrorism within the country as well as on its eastern and northern borders, including terrorism perpetrated by terrorist cells, which are closely monitored and broken up by the Lebanese security forces. Indeed, hardly a week goes by without the discovery of another terrorist cell seeking to undermine the stability and security of Lebanon. The Lebanese army has also striven to combat terrorist groups that have attacked border towns and villages and abducted soldiers.

91. The major challenges faced by Lebanon also include the negative repercussions of the Syrian crisis on Lebanon in the security, economic, social and even political fields. Indeed, Lebanon has found itself on the front lines with regard to the refugee crisis and has to deal with an influx of huge numbers of Syrian refugees into its territory — an influx that, it is said, even an entire continent would find difficult to deal with. How can a country with a total land area of only 10,452 square kilometres and a population of some 4 million residents absorb a number of Syrian and Palestinian refugees that is equal to more than half its population? These exceptional circumstances have compelled Lebanon to reorder its priorities, and the severe overcrowding of Lebanon's prisons, resulting, inter alia, from the placing of increasing numbers of individuals in pretrial detention, has only exacerbated the challenges faced by the country.

3. Alternatives to detention and information regarding the requirement for an investigating judge to consult the Office of the Public Prosecutor before ordering an alternative measure to detention

92. During the judicial investigations, a competent judge may order an alternative to detention. The most common alternative prescribed is the release of the suspect on bail, the imposition of a travel ban and the requirement that the suspect surrender his or her passport.

93. The Ministry of Justice is, moreover, exploring the possibility of working with a civil society organization to establish and implement a monitoring system, which could serve as a legally prescribed alternative to detention.

94. The requirement that an investigating judge must consult the Office of the Public Prosecutor before ordering an alternative measure to detention is prescribed by the Code of Criminal Procedure, in view of the fact that the Office of the Public Prosecutor is responsible for pursuing public prosecutions against offenders who have committed certain offences.

95. It should be noted that the opinion issued by the Office of the Public Prosecutor does not oblige the investigating judge to order an alternative measure to detention. However, under the law, the Office of the Public Prosecutor may lodge an appeal against a ruling that runs counter to the opinion it issued in that regard.

4. The right to a lawyer

96. Article 47 of the Code of Criminal Procedure enshrines the right of a detained person to meet with a lawyer appointed by a declaration noted in the record of the investigations. The lawyer is not entitled to attend investigatory interviews conducted by judicial police officers during the preliminary investigations.

97. The lawyer is, however, entitled to attend interviews conducted by the investigating judge during the investigation stage. He is also entitled to make comments and ask questions.

5. The growth of private security groups

98. The State affirms that the power of detention lies exclusively with the judiciary. Any arrest that is not issued pursuant a judicial decision constitutes a criminal offence that is punishable by law.

6. The 81 deaths that occurred in the prison system

99. The Lebanese authorities confirm that all deaths that have occurred in Lebanese prisons were due to natural causes. None of those deaths occurred as a result of acts of torture or inhuman treatment.

7. The detention of juvenile offenders and their separation from adult offenders

100. The authorities make every effort to ensure that juvenile offenders are held separately from adult offenders. Furthermore, competent judges order juveniles to be held in pretrial detention only in exceptional circumstances, namely when there is no alternative to detention that is in the interests of the minor concerned or the community.

VII. The elimination of slavery and combating trafficking in persons

101. Attention is drawn in this regard to paragraphs 68 and 69 of the State party's report, which provide responses to the questions about human trafficking. The following points should also be emphasized:

- Lebanon has no official statistics on the number of cases of exploitation and human trafficking, particularly among at risk groups, such as Syrian refugees.
- Lebanese law continues to penalize clandestine prostitution, although Act No. 164 of 2011 on combating human trafficking provides certain protections for victims. A draft act to protect victims of prostitution from prosecution has also been submitted to the Chamber of Deputies.
- The Ministry of Justice has entered into contractual arrangements with civil society institutions and associations involved in providing assistance and protection to women and child victims of trafficking, and has adopted terms for the provision of such assistance, in accordance with Decree No. 9082 of 10 October 2012.
- The Lebanese judicial authorities, acting through investigating judges and the offices of the Office of the Public Prosecutor at courts of appeal in the country's governorates, investigates human trafficking offences, prosecutes offenders and refers them to the criminal courts, which impose appropriately severe penalties on perpetrators of such offences. The Office for the Protection of Decency of the Internal Security Forces has been renamed the Office to Combat Human Trafficking and Protect Human Decency.
- The Lebanese authorities have no plans for the abolition of the sponsorship (*kafala*) system at the present time.
- Any person who exploits a domestic worker is liable to prosecution and punishment under Lebanese law. The Ministry of Labour has implemented a number of preventative measures in that regard, including the introduction of a standard employment contract and the development of a manual on the rights and obligations of foreign workers, which it distributes to workers on arrival at the airport. It has also launched a hotline (No. 1740) to receive calls and complaints, and has set up a special administrative unit, the Inspection, Prevention and Safety Department, which is responsible for tracking all complaints concerning violations of workers' rights and assigning labour inspectors to closely monitor the actions of employment

agencies in order to prevent exploitation. It has also drawn up a blacklist of employers who abuse domestic workers.

- No foreigner is denied a residence permit without good reason.

VIII. Rights of refugees and asylum seekers and freedom of movement

102. Attention is drawn in this regard to paragraphs 21 to 36 of the State party's report, which provide responses to the questions raised. The following points should also be emphasized:

- Lebanon has refrained from closing its borders to Syrian refugees. Indeed, Lebanon has welcomed more than one and a half million Syrian refugees onto its territory, despite the fact that the country has faced significant social and economic challenges as a result of that huge influx of people.
- The Lebanese authorities are making every effort to ensure that the rights of internally displaced persons are protected and upheld at all levels.
- The principle of non-refoulement is fully respected by the Lebanese judicial and administrative authorities. No person may be deported from Lebanese territory if there is any reason to believe that he will be subjected to torture in his country.
- Under Lebanese law, no one may be subjected to arrest or detention without a judicial warrant. There is no so-called administrative detention. Failure to renew a residence permit and the unlawful entry to or exit from Lebanon are criminal offences and subject to prosecution before a competent court.

IX. The right to justice, the independence of the judiciary and the right to a fair trial

1. Independence of the judiciary

103. The legislative authorities have implemented a number of initiatives to ensure that the judiciary remains independent of the executive and legislative authorities. Those initiatives uphold internationally recognized principles on the independence of the judiciary, including with regard to criteria for the appointment and transfer of judges, as well as internationally recognized material and moral safeguards.

2. Jurisdiction of the military court

104. Three draft acts on the abolition of the military court and the restoration of jurisdiction over a number of offences to the courts of justice are currently being discussed in the Chamber of Deputies.

3. Upholding the rights of foreign nationals to seek legal redress and to present a defence in court

105. Article 9 of the Code of Civil Procedure guarantees all persons resident in Lebanon the right to litigation (the right of access to seek legal redress and the right to defence), without discriminating between Lebanese citizens and foreign nationals. The Legal Fees Act contains no provisions that discriminate between Lebanese citizens and foreign nationals in terms of legal expenses and fees. However, the Code of Criminal Procedure stipulates that foreign nationals who file complaints with the criminal courts must submit additional surety for acceptance of their complaint (arts. 68 and 155). The Code exempts foreign nationals from payment of the surety if the offence is a misdemeanour and if the judge considers that there are sufficient grounds to justify the exemption. The purpose of

the surety is to prevent abuse of the right to litigate. Foreign nationals are required to pay an additional surety because they are able to leave the country after filing an arbitrary complaint.

106. Pursuant to article 416 of the Code of Civil Procedure, foreign nationals who are legally resident in Lebanon can benefit from legal aid subject to the principle of reciprocity. Moreover, when counsel is appointed in criminal cases involving persons with physical disabilities, no distinction is made between Lebanese citizens and foreign nationals.

X. Right to privacy

107. Act No. 140 of 1999 concerning protection of the right to confidentiality provides that: "the right to confidentiality of information transmitted by any means of communication shall be upheld".

108. The right to confidentiality of communications is protected by law. Communications may not be subjected to any type of wiretapping, surveillance, interception or disclosure except as provided in that Act, namely pursuant to a judicial or administrative decision.

109. An administrative decision authorizing the interception of communications may be issued by either the Minister of the Interior and Municipalities or the Minister of Defence, on condition that approval for this has been granted by the Prime Minister.

110. The decision must be issued in writing and reasoned on the basis of a need to gather information pertinent to efforts to combat terrorism, State security offences or organized crime.

111. Communications may be intercepted for a period that does not exceed two months. That period may be extended only under the same terms and conditions.

XII. Right to freedom of expression

112. Freedom of expression in Lebanon is safeguarded under the provisions of the Constitution and the law.

113. Use of the media or the Internet to criticize the President of the Republic of Lebanon or foreign politicians or heads of State is not prohibited, and no penalty is prescribed in the Criminal Code for mere criticism, which falls within the framework of freedom of expression. Penalties are, however, prescribed in the Code for the offences of libel, slander and defamation.

114. In no way does this constitute a violation of the right to freedom of expression, especially since that that right must be exercised within internationally recognized limits so as to cause no damage to others or to public order.

115. The State party affirms, moreover, that persons are summoned by the Cybercrime Centre of the Internal Security Forces only in connection with offences perpetrated by means of the Internet. They are not summoned merely for making critical statements.

116. With regard to freedom of the media, the requirement that a licence must be obtained in advance may not be interpreted as imposing restrictions on freedom of opinion and communication in Lebanon, given that all political parties and religious communities enjoy complete freedom to express their opinions via licensed television and radio stations.

117. As for the dissemination of works of an artistic or intellectual nature, prior approval for dissemination must be obtained from the Director General of the Directorate General of Public Security. An artistic or intellectual work may be prohibited if it poses a threat to security, national sentiment or public morals or could stir up sectarian strife, in accordance with the permissible restrictions provided by international human rights law.

118. No draft act on the establishment of an independent licencing authority is currently under consideration. Given the wide scope of the freedoms enjoyed in Lebanon, it is not believed that the promulgation of such an act is necessary.

119. Finally, it should be noted that, on 10 February 2017, the Chamber of Deputies adopted Act No.28 concerning the right of access to information. It is also studying a draft act on the protection of whistle-blowers with a view to strengthening freedom of expression and facilitating efforts to combat corruption.

XII. The right to freedom of assembly

120. The Lebanese authorities have undertaken to protect and guarantee the right to peaceful protest provided that all restrictions designed to maintain security and public order and to protect the rights and freedoms of others are respected.

121. A great deal of criticism has recently been expressed regarding the violation by the law enforcement authorities of the right of assembly and peaceful protest during the demonstrations calling for an end to the garbage crisis.

122. The following should be taken into account:

- Not all the gatherings were peaceful; in some cases, law enforcement officers and private property were attacked.
- Any assault or excessive use of force against a citizen by law enforcement officers is subject to review by the courts in order to ensure accountability and to compensate the victims.
- The courts have handed down numerous judgments imposing penalties on law enforcement officers found to have used excessive force against demonstrators.

123. Although, in theory, the law prohibits public sector employees from establishing associations or going on strike, in practice, public sector employees have held numerous strikes. The most recent of those strikes was held in September 2017 to support demands for salary increases.

124. With regard to the right of foreign nationals to freedom of association, attention is drawn to the information contained in paragraph 35 of the State party's report.

XIII. Rights of the child and forced marriages

1. Non-registered children

125. The Ministry of Justice has accorded particular attention to the issue of undocumented persons and issued three legal instructions in that regard:

- The first legal instruction, addressed to the Supreme Judicial Council for circulation to judges, underscores that the files of undocumented persons must be processed in an expedited manner.
- The second legal instruction, addressed to Office of the Public Prosecutor at the Court of Cassation for circulation to Court of Cassation prosecutors in the country's governorates, stipulates that, except in cases of special necessity, appeals may not be lodged against judicial rulings providing for the registration of undocumented persons.
- The third legal instruction, addressed to the Ministry of the Interior and Municipalities, underscores that administrative and judicial measures for registering undocumented persons must be completed in an expedited manner.

2. Underage marriage

126. A group of parliamentarians have sponsored a draft act on raising the minimum age of marriage for girls and boys to 18 years. That draft act has been submitted to the

competent parliamentary committees for review prior to its adoption by the general body of the Chamber of Deputies.

XIV. The right to participate in public life

127. There are no legal provisions preventing any Lebanese national who meets the prescribed legal requirements from standing as a candidate and voting in elections. There are no discriminatory provisions in Lebanese law preventing any Lebanese national from exercising his right to vote and to stand for office.

Judge Nazik al-Khatib